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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,061	04/20/2000	Richard R. Reisman	RRR-00-006US	5602

7590 05/08/2002

WESTERLUND & POWELL, P.C.
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314-2886

EXAMINER

PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 05/08/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/556,061

Applicant(s)

REISMAN, RICHARD R.

Examiner

Tammara R Peyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 68-443 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 68-443 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 68-443 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Chernow et al.*, US patent number 4,999,806 and *Halliwel et al.*, US patent number 5,564,051.

2. As per claims 68, 76, 77, 81, 82, 98, 106, 107, 111, 112, 128, 136, 137, 141, 142, 158, 166, 167, 171, 172, 188, 196, 197, 201, 202, 218, 226, 227, 231, 232, 248, 256, 257, 261, 262, 278, 286, 287, 291, 292, 308, 316, 317, 321, 322, 323, 331, 332, 336, 337, 353, 361, 362, 366, 367, 429, 437, 438, 442, and 443, *Chernow* teaches a computer implemented method for distributing software from a remote computer system to a user station, the method comprising:

- displaying to the user a software directory, wherein [updated] software is available for downloading to the user;
- sending to the remote computer system over a communication network a selection of software for distribution to the user station,
- and receiving from the remote computer system over the communication network software indicated by the selection. [*Chernow*, Abstract, Summary, col. 5, lines 40-col. 13, lines 1-60, Figs. 1a, 1b, 2]

3. *Chernow* is silent in respect to identifying and sending to a remote computer the software not already installed on the user station. Nonetheless, *Halliwell* teaches of identifying software already installed on the user station, and receiving a directory of software available for installation on the user station and not already installed on the user station. *Halliwell* teaches of comparing software already installed on the system with updated software not already installed on the system. The software not already installed is compiled in a list and displayed to the user. [Halliwell, Abstract, col. 4, lines 5-col. 8, Figs. 1-5]

4. It would have been obvious to one of ordinary skilled in the art at the time of invention to implement the identifying element of *Halliwell* with *Chernow's* method of displaying to the user a software directory, and receiving from a remote computer system over the communication network software indicated by the selection. Doing so would expand and add flexibility to *Chernow's* system by only displaying files for applications that are own to have [updated] software applications not currently installed on the system, and not all the software applications which are not being used or ~~a~~ software application updated~~d~~ is not necessary, so that processing overhead can be kept to a minimum. [Halliwell, col. 2, lines 63-67]

5. As per claim 83, 91, 92, 96, 97, 113, 121, 122, 126, 127, 143, 151, 152, 156, 157, 173, 181, 182, 186, 187, 203, 211, 212, 216, 217, 233, 241, 242, 246, 247, 293, 263, 271, 272, 276, 277, 293, 301, 302, 306, 307, 338, 346, 347, 351, 352, 368, 376, 377, 381, 382, 383, 391, 392,

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396, 397, 398, 406, 407, 411, 412, 413, 421, 422, 427, and 428, *Chernow* in view of *Halliwell* teaches a computer implemented method for distributing software from a remote computer system to a user station, the method comprising:

- providing information enabling the user station to present a directory of software available for installation on the user station;
- receiving at the remote computer system a selection of software to be downloaded to the user station;
- and distributing to the user station over a communication network software indicated by the selection. [See paragraphs 2-4]

6. As per claim 69, 84, 99, 114, 129, 144, 159, 174, 189, 204, 219, 234, 249, 264, 279, 294, 309, 324, 339, 354, 369, 384, 399, 414, and 430, *Halliwell* teaches wherein the identification of software already installed on the user station is determined without requiring the user to identify the software.

7. As per claim 70, 85, 100, 115, 130, 145, 160, 175, 190, 205, 220, 235, 250, 265, 280, 295, 310, 325, 340, 355, 370, 385, 400, 415, and 431, *Chernow* and *Halliwell* teach wherein the directory is provided by the remote computer system.

8. As per claim 71, 86, 101, 116, 131, 146, 161, 176, 191, 206, 221, 236, 251, 266, 281, 296, 311, 326, 341, 356, 371, 386, 401, 416, and 432, *Halliwell* teaches a method wherein the system alerts the user that the software should be received.

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9. As per claims 72, 73, 75, 87, 88, 90, 102, 103, 105, 117, 118, 120, 132, 133, 135, 147, 148, 150, 162, 163, 165, 177, 178, 180, 192, 193, 195, 207, 208, 210, 222, 223, 237, 238, 240, 225, 252, 253, 255, 267, 268, 270, 282, 283, 285, 297, 298, 300, 312, 313, 315, 327, 328, 330, 342, 343, 345, 357, 358, 360, 372, 373, 375, 387, 388, 390, 402, 403, 405, 417, 418, 420, 433, 434, and 436, *Chernow* and *Halliwel* teach wherein the method is initiated in response to a communication between the user station and the remote computer system. *Halliwel* teaches the use of a schedule.

10. As per claim 74, 89, 104, 119, 134, 149, 164, 179, 194, 209, 224, 240, 254, 269, 299, 314, 329, 344, 359, 404, 421, and 435, *Chernow* nor *Halliwel* teaches wherein the communication occurs according to a schedule determined by the user, however, it would have been obvious to one of ordinary skill that the user will only download software when needed.

11. As per claim 78, 93, 108, 123, 138, 153, 168, 183, 198, 213, 228, 243, 258, 273, 288, 303, 318, 333, 348, 363, 378, 393, 408, 423, and 439, *Chernow* nor *Halliwel* expressly disclose the use of an HTML viewer, however, official notice is taken that an HTML viewer is well known in the art, thereby making use of this method obvious.

12. As per claim 79, 94, 109, 124, 139, 154, 169, 184, 199, 214, 229, 244, 259, 274, 289, 304, 319, 334, 249, 364, 394, 409, 424, and 440, *Chernow* nor *Halliwel* expressly disclose wherein the communication network includes the Internet, however, one of ordinary skill in the

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art at the time the invention was made would recognize that the Internet is well known in the art, therefore, making use of the communication network obvious.

13. As per claim 80, 95, 110, 125, 140, 155, 170, 185, 200, 215, 230, 245, 260, 275, 290, 305, 320, 335, 350, 365, 395, 410, 425, and 441, official notice is taken that the user station comprises a cable television controller, video game player, information kiosk, wired personal communicator, wireless personal communicator, personal information communicator, personal digital assistance, information appliance, and system controller, because these systems are well known in the art thereby making use of these systems obvious.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 8:00 - 4:30 from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal communications intended for entry should be sent to:

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(703) 746-7238, After Final (703)746,7239

or, for informal or draft communications, to:

(703) 746-7240 (please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to:

Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Tammara Peyton

May 6, 2002


JEFFREY GAFFIN
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